

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION**

**UNITED STATES OF AMERICA**

**VERSUS**

**CRIMINAL ACTION 1:05CR17-P-D**

**JULIAN MINGO**

**ORDER**

This cause is before the Court on the defendant's Motion in Limine Regarding Inadmissibility of Taped and Written Statements [22-1] and his Motion in Limine Regarding Inadmissability of Taped Statements, Witness Statements and Dismissal of the Indictment [23-1]. The Court, having reviewed the motion, the response, the authorities cited and being otherwise fully advised in the premises, finds as follows, to-wit:

That the motion is not well-taken and should be denied.

The VHS-C tape and related testimony are relevant to the pending charges against the defendant. The tape was seized from the defendant's coat in the defendant's closet in the defendant's resident pursuant to a search conducted pursuant to the defendant's consent. The government plans to introduce testimony from the minor depicted on the VHS tape regarding the creation of the tape and his age at the time.

While the evidence is indeed prejudicial to defendant, F.R.E. 403 is of no help to the defendant. The probative value of the VHS-C tape and a testimonial account of its creation is obvious in a case alleging possession of child pornography by the defendant. There is no danger that the evidence of the crime will be substantially outweighed by the danger of unfair prejudice.

Finally, the defendant asserts that the tape is inadmissible hearsay; however, inasmuch as he fails to articulate any sound legal argument to support his assertion, the Court finds his contention meritless.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the defendant's Motion in Limine Regarding Inadmissibility of Taped and Written Statements [22-1] and his Motion in Limine Regarding Inadmissibility of Taped Statements, Witness Statements and Dismissal of the Indictment [23-1] are not well-taken and should be, and hereby are, DENIED.

SO ORDERED, this the 30<sup>th</sup> day of June, 2005.

/s/ W. Allen Pepper, Jr. \_\_\_\_\_  
W. ALLEN PEPPER, JR.  
UNITED STATES DISTRICT JUDGE